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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,962	03/22/2005	Achim Dieterich	10191/3742	9144
26646	7590	06/21/2006	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			GANNON, LEVI	
			ART UNIT	PAPER NUMBER
			2817	

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/528,962	DIETERICH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Levi Gannon	2817	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 8 is/are rejected.
- 7) ☒ Claim(s) 3,5-7 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/22/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/22/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. It is noted that this application appears to claim subject matter disclosed in prior Application No. PCT/DE03/01601, filed 5/19/2003. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e),

Art Unit: 2817

120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

***Claim Objections***

2. Claim 3 is objected to because of the following informalities: Claim 3 includes the recitation "... hollow conductor (24)..." in line 3. Claim 3 should read --hollow conductor (20)--. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the US patent of Lucas et al, 6,580,403 in view of the US patent of Ondria, 4,890,074.

5. Regarding claim 1, Lucas et al disclose a microwave oscillator (figure 4) having a hollow conductor (area under contact spring, 7), an oscillation generator (1) which is mounted on a heat sink (2) and projects into the hollow conductor (area under contact spring, 7), and a disk (11) that supplies a voltage to the oscillation generator (1) and forms a wall of the hollow conductor.

6. Lucas et al do not disclose a printed circuit board having electronic components for supplying direct voltage to the oscillation generator, and the oscillation generator including its heat sink being located in the printed circuit board.

7. Ondria discloses a printed circuit board (figure 1) having electronic components (5, 7, 12, 10, and 11) for supplying direct voltage to the oscillation generator (2), and the oscillation generator is located in the printed circuit board.

8. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to place the printed circuit board of Ondria on the disk of Lucas et al because such a modification would allow for the combination of the electronic components of Ondria and the oscillator of Lucas et al into one compact and convenient package.

9. As for claim 2, Ondria discloses a conductive structure (line connecting electronic components in figure 1) being situated on the printed circuit board (1) and forming a lowpass filter (5) and being connected electrically to the oscillation generator (2) and the components (5, 7, 12, 10, and 11) for supplying direct voltage to the oscillator generator (2).

10. In terms of claim 3, Ondria teaches a stripline (line connecting 8, 14, and 15) being situated on the printed circuit board (1), the stripline (line connecting 8, 14, and 15) being coupled to the microwave field within the hollow conductor (area under contact spring, 7) and being guided out of the hollow conductor (area under contact spring, 7) as a microwave output.

11. As for claim 4, Lucas et al disclose the hollow conductor (area under contact spring, 7) being expanded to form a resonator chamber (space around 5 and 20 that is above 11 and below 7) in the area of the oscillation generator (2).

12. Regarding claim 8, Lucas et al teach a metallic base plate (3) being situated on the side of the printed circuit board, placed on the disk, facing away from the hollow conductor (area under contact spring, 7), the metallic base plate (3) being electrically connected to the other walls (4) of the hollow conductor and being in thermal and electrical contact (column 2, lines 41-42) with the heatsink (2).

***Allowable Subject Matter***

13. Claims 5-7 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. The following is a statement of reasons for the indication of allowable subject matter: The best art of record, Lucas et al, taken alone or in combination of other references does not teach or fairly suggest the hollow conductor being impervious to the fundamental wave, an adjustable resonator disc, a choke piston, or a continuously metallic coating electrically connected to the walls of the hollow conductor, as set forth in claims 5-7 and claim 9.

***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The US Patent of Evans, 4,999,587 teaches a similar oscillator containing an oscillation generator, heat sink and hollow conductor.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Levi Gannon whose telephone number is (571) 272-7971. The examiner can normally be reached on Monday-Friday 8:30AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pascal can be reached on (571) 272-1769. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LG  
06/16/2006

  
JOSEPH CHANG  
PRIMARY EXAMINER